

Application No. 09/931,896
Brief of Appeal dated August 27, 2007
Relating to Office Action of June 14, 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 09/931,896
Confirmation No. : 4032
Applicant : Jean-Sébastien Lessard et
al.
Filed : August 20, 2001
TC/A.U. : 2157
Examiner : Barbara N. Burgess
Docket No. : 2531-003 (formerly
6352-002-US-02)

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

APPEAL BRIEF UNDER 37 CFR § 41.37

Madam, Sir:

This Appeal Brief is filed in furtherance of the Notice of Appeal that was filed in the above-captioned application on June 27, 2007.

Appellant files herewith an Appeal Brief (submitted in triplicate) under 37 CFR § 41.37 in connection with the aforementioned application, wherein claims 1 to 26 were finally rejected in the Office Action mailed June 14, 2007.

STATUS OF THE APPLICANT

Pursuant to 37 CFR § 1.27(a), this application is on behalf of a small entity.

FEE FOR FILING A BRIEF OF APPEAL

Pursuant to 37 CFR § 41.20(b)(2), the fee for filing the Brief of Appeal is: **\$ 250.00**

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TOTAL FEES DUE

The total fees due are:

Brief of Appeal Fee:	\$ 250.00
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I. Real Party in Interest (37 CFR § 41.37(c)(1)(i))

The real party in interest in the appeal is the assignee of the application, Nomad Logic Inc., which received its right through assignments from the inventors Jean-Sébastien Lessard, Mathieu Boisclair and Frédéric Simard-Fournier.

II. Related Appeals and Interferences (37 CFR § 41.37(c)(1)(ii))

There are no other related appeals or interferences in process or pending before the U.S. Patent and Trademark Office.

III. Status of Claims (37 CFR § 41.37(c)(1)(iii))

The status of the claims set forth after the Final Office Action mailed June 14, 2007, was and is as follows:

Withdrawn claims: **none**

Allowed claims: **none**

Rejected claims: **1 to 26**

Objected claims: **none**

Accordingly, the present appeal is directed to claims **1 to 26**.

IV. Status of Amendments (37 CFR § 41.37(c)(1)(iv))

Subsequent to the Final Office Action of June 14, 2007, Appellant has not filed any amendments in response to the aforementioned Office Action.

V. Summary of Claims Subject Matter (37 CFR § 41.37(c)(1)(v))

For the sake of simplicity, references to the present application will be made using the paragraph numbering of the published application, namely publication no. U.S. 2002/0035609.

Claim 1

The claimed matter of independent claim 1 relates to a system for the creation and management of location bookmarks. The system comprises at least a data server (Internet server 101; public Web servers, Fig.1, paragraph [0081]), a user device (mobile units 107 and 108, Fig. 1, paragraphs [0081], [0084] and [0085]) and a data communication network (wireless WAN 102, wireless LAN 104, Internet, Fig. 1, paragraph [0081]).

The data server itself comprises processor means for processing data (not shown), means for encoding data elements (XML "Extended Mark-up Language", paragraph [0091]), means for storing the data elements on a storage medium (Data Base Location Bookmark 125, Fig. 2, paragraph [0089]), means for selectively accessing the data (Application server 120 and Find Module 123, Fig. 2, paragraphs [0086]-[0090]) and data transceiver means (base transceiver station 103, LAN access point 106, Fig. 1, paragraph [0081]).

The user device comprises means for determining the location position (GPS, TOA, E-OTD, paragraph [0096]), means for creating data elements relating to the location (paragraph [0097]) and data transceiver means (paragraph [0022] and also implicitly from the antenna of mobile device 108 in Fig. 1).

Thus, claim 1 pertains to a system in which a user device is used to create a location bookmark with its associated description and position, the location bookmark is then sent to a data server, via a data communication network, for processing and storage.

Claims 2 to 11

Claims 2 to 11, all ultimately dependent on claim 1, generally only further described what is to be included in the data elements related to the location. The data elements can comprise geographical position such as latitude, longitude, altitude and even the

precision of these values. The data elements can also comprise identifier such as text description, video recording, audio recording, image, author information, etc.

Claim 2, dependent on claim 1, further recites that the data elements comprise the geographical position of the location and a user-created identifier (paragraphs [0096] and [0097]).

Claim 3, dependent on claim 2, further recites that the geographical position comprises the latitude and the longitude (paragraph [0089] and original claim 3).

Claim 4, dependent on claim 2, further recites that the user-created identifier comprises one or more of a text, a video recording, an audio recording, an image (paragraph [0097]).

Claim 5, dependent on claim 3, further recites that the geographical position also comprises the altitude (paragraph [0089] and original claim 5).

Claim 6, dependent on claim 4, further recites that the user-created identifier also comprises an identification of the author (paragraph [0097]).

Claim 7, dependent on claim 6, further recites that the data elements comprise the accuracy of the geographical position (latitude, longitude and altitude) (paragraph [0097]).

Claim 8, dependent on claim 1, further recites that the data elements comprises the latitude, the longitude and the altitude of the location and an identifier associated with the location (paragraphs [0089] and [0097]).

Claim 9, dependent on claim 1, describes a location bookmark for use with the system of claim 1. The location bookmark comprises data elements themselves comprising

the geographical position of the location and an identifier associated with the location (paragraphs [0096] and [0097]).

Claim 10, dependent on claim 9, further recites that the geographical position comprises the latitude and the longitude of the location (original claim 10).

Claim 11, dependent on claim 10, further recites that the geographical position also comprises the altitude of the location (original claim 11).

Claim 12

Independent claim 12 recites a method which allows an end user to create and store location bookmarks via a system comprises a data server (Internet server 101; public Web servers, Fig.1, paragraph [0081]), at least one user device (mobile units 107 and 108, Fig. 1, paragraphs [0081], [0084] and [0085]) and a data communication network (wireless WAN 102, wireless LAN 104, Internet, Fig. 1, paragraph [0081]). The method comprises the steps of determining the geographical position of the location, identifying or creating additional data elements, creating a record (i.e. a location bookmark) comprising the position and the data elements. These steps are done with the user device. The method further comprises the steps of sending the record (the location bookmark) to the server via the communication network and storing the record on the server (Fig. 4 and paragraphs [0096] and [0097]).

Claims 13-16, 18, 22 and 23

Claims 13-16, 18, 22 and 23, dependent on independent claim 12, further recite limitations about the method.

Claim 13, dependent on claim 12, further recites that the user device is a wireless device (device 108, Fig. 1 and paragraph [0023]).

Claim 14, dependent on claim 12, further recites that the user device is a wired device (paragraph [0023]).

Claim 15, dependent on claim 13, further recites that the wireless device is a cellular phone (device 108, Fig. 1).

Claim 16, dependent on claim 12, further recites that the record (i.e. the location bookmark) is created via a browser based light client (paragraph [0090] and Fig. 2).

Claim 18, dependent on claim 12, further recites that the coordinates are determined via a GPS device (paragraph [0096]).

Claim 22, dependent on claim 12, further adds steps to the method of claim 12, namely that the user of the end device can access the server using the communication network, select a record (i.e. a location bookmark) on the server and receive the selected record on the end user device via the communication network (paragraphs [0106] and [0107]).

Claim 23, dependent on claim 12, further recites an alternative method wherein a first user creates a record (i.e. a location bookmark) and then transmits the record (i.e. the location bookmark) to a second user via the communication network (paragraphs [0118]-[0120]).

Claim 17

Independent claim 17 recites a method which allows an end user to create and store location bookmarks via a system comprises a data server (Internet server 101; public Web servers, Fig.1, paragraph [0081]), at least one user device (mobile units 107 and 108, Fig. 1, paragraphs [0081], [0084] and [0085]) and a data communication network

(wireless WAN 102, wireless LAN 104, Internet, Fig. 1, paragraph [0081]). The method comprises the steps of determining the geographical position of the location and identifying or creating additional data elements. These steps are done with the user device. The method further comprises the steps of sending the geographical position and the additional data elements to the server via the communication network and storing these data on the server (Fig. 4 and paragraphs [0096] and [0097]).

Claims 19-21 and 24

Claims 19-21 and 24, ultimately dependent on claim 17, further recite limitations about the method.

Claim 19, dependent on claim 17, further recites that the position coordinates are determined with a GPS device (paragraph [0096]).

Claim 20, dependent on claim 19, further recites that the GPS device is integrated with a wireless device (original claim 20).

Claim 21, dependent on claim 20, further recites that the wireless device is a cellular phone (device 108, Fig. 1).

Claim 24, dependent on claim 17, further recites that the system comprises a second user device whereby a first user determines the position and creates additional data and then transmits these position and additional data to a second user via the communication network (paragraphs [0118]-[0120] and [0127]).

Claim 25

Independent claim 25 relates to a system for the creation and management of location bookmarks relating to locations wherein the location bookmark comprises

geographical data elements and personalized data elements. The system comprises at least a data server (Internet server 101; public Web servers, Fig.1, paragraph [0081]), a user device (mobile units 107 and 108, Fig. 1, paragraphs [0081], [0084] and [0085]) and a data communication network (wireless WAN 102, wireless LAN 104, Internet, Fig. 1, paragraph [0081]).

The data server itself comprises processor means for processing data (not shown), means for encoding data elements (XML "Extended Mark-up Language", paragraph [0091]), means for storing the data elements on a storage medium (Data Base Location Bookmark 125, Fig. 2, paragraph [0089]), means for selectively accessing the data (Application server 120 and Find Module 123, Fig. 2, paragraphs [0086]-[0090]) and data transceiver means (base transceiver station 103, LAN access point 106, Fig. 1, paragraph [0081]).

The user device comprises means for determining the location position (GPS, TOA, E-OTD, paragraph [0096]), means for creating personalized data elements relating to the location (paragraph [0097]), display means for displaying the geographical and personalized data elements (device's screen, paragraphs [0107] and [0110]) and second transceiver means (paragraph [0022] and also implicitly from the antenna of mobile device 108 in Fig. 1).

Claim 25 further recites that the user device is adapted to transmit the geographical data elements and the personalized data elements to the server, via the data communication network, in order for the geographical data elements and the personalized data elements to be encoded and stored thereon (paragraphs [0096] and [0097]). Claim 25 also recites that the user device can retrieve the geographical data elements and the personalized data elements from the data server, via the data communication network, in order for the geographical data elements and the personalized data elements to be displayed on the user device (paragraphs [0107] and [0110]).

Claim 26

Independent claim 26 recites a method which allows an end user to create and store location bookmarks relating to locations via a system comprises a data server (Internet server 101; public Web servers, Fig.1, paragraph [0081]), at least one user device (mobile units 107 and 108, Fig. 1, paragraphs [0081], [0084] and [0085]) and a data communication network (wireless WAN 102, wireless LAN 104, Internet, Fig. 1, paragraph [0081]). The method comprises the steps of determining the geographical position of the location using the user device, creating personalized data elements relating to the location, creating a record (a location bookmark) which comprise the geographical data elements and the personalized data elements, transmitting the record from the user device to the data server via the communication network, encoding the transmitted record on the data server and finally, storing the encoded record on the server (Fig. 4 and paragraphs [0096] and [0097]).

VI. Grounds of Rejection to be Reviewed on Appeal (37 CFR § 41.37(c)(1)(vi))

- Claims 1-2, 4, 6, 9, 12-26 are rejected under 35 USC § 103(a) as being obvious over U.S. Patent No. 6,199,045, granted to Giniger et al. (hereinafter "Giniger") in view of U.S. Patent No. 5,938,721, granted to Dussell et al. (hereinafter "Dussell").
- Claims 3 and 10 are rejected under 35 USC § 103(a) as being obvious over Giniger in view of Dussell and in further view of U.S. Patent No. 5,926,116 granted to Kitano et al. (hereinafter "Kitano").
- Claims 5 and 11 are rejected under 35 USC § 103(a) as being obvious over Giniger in view of Dussell, in further view of Kitano and in further view of U.S. Patent No. 5,825,283 granted to Camhi (hereinafter "Camhi").
- Claims 7 and 8 are rejected under 35 USC § 103(a) as being obvious over Giniger in view of Dussell and in further view of Camhi.

VII. Arguments (37 CFR § 41.37(c)(1)(vii))

The Examiner's rejection of claims 1-2, 4, 6, 9 and 12-26 under 35 USC § 103(a) as being obvious over Giniger in view of Dussell is erroneous and should be reversed.

Section 103(a) of 35 U.S.C. reads as follows:

35 U.S.C. 103 Conditions for patentability; nonobvious subject matter.

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
(emphasis added)

Section 103(a) is pretty clear that a patent may not be granted if the difference between the invention, **taken as a whole**, and the prior art is such that it would be obvious.

However, section 103(a) does not allow for any prior art to be used in order to destroy the inventiveness of an invention. As a matter of fact, as recited in the MPEP §2141 II.:

When applying 35 U.S.C. 103, the following tenets of patent law must be adhered to:

- (A) The claimed invention must be considered as a whole;
- (B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination;

- (C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention; and
- (D) Reasonable expectation of success is the standard with which obviousness is determined.

Furthermore, as explicitly recited in the MPEP §2141.02 I.:

“In determining the difference between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious.” (emphasis in original)

Finally, as recited in the MPEP §2141.02 II.:

“Distilling an invention down to the “gist” or “thrust” of an invention disregards the requirement of analyzing the subject matter “as a whole”.”

According to the foregoing, when considering the obviousness of the present invention, the Examiner has to consider the claimed invention as a whole. In other words, the Examiner cannot dissect or decompose the claimed invention into individual elements and then find prior art for each of the individual elements taken independently. This would disregard to requirement of considering the invention as a whole and ultimately, that would amount to the impermissible use of hindsight vision.

In the present case, the claimed invention is a system to create, store and manage location bookmarks wherein the location bookmarks are created by the users. In the system, the user, with his/her device, retrieves his/her position generally with GPS satellites or other similar positioning system. Once the position of the user is known, he/she adds personalized information (e.g. textual description, pictures, sound, etc.) pertaining to the retrieved location in order to create a personalized location

bookmark. The created bookmark can then possibly be transmitted to and stored on a remote server, via a telecommunication network, for future retrieval by the creating user or by any other users. The bookmark can alternatively be directly transmitted to another user via the same telecommunication network. Thus, globally, the present invention concerns a system and a method therefor, wherein users create personalized bookmarks relating to location of their choice. This is a system, and a method, for creating information about user-specified locations.

It is to be noted that the preamble and the body of independent claims 1, 12, 17, 25 and 26 each contains the term “create” in the context of creating location bookmarks. Thus, in the present invention, the “creation” aspect and the “location bookmark” aspect are essential.

Keeping in mind the present invention, we must now first determine the scope of the prior art references.

In the present case, there are two main prior art references, the Giniger’s reference and the Dussell’s reference.

Generally speaking, the invention of Giniger is a location-based information retrieval system. Briefly described, the system of Giniger comprises a server, a wireless user device and a communication network. In the system of Giniger, the wireless device comprises GPS means to determine the current location of the user. The device then sends (periodically) the current position of the user to the server via the communication network. Based on the location information sent by of the user, the server then determines a list of locations of interest located near the user. The user can browse through a menu of possible interesting locations sent by the server. It is also possible, in the system of Giniger, to personalize the menu offered to the user. Hence, the system of Giniger is a system where the information is pulled by the user and wherein the user cannot create new location bookmarks. In Giniger’s system, the

locations of interest proposed by the system are provided by a third party and not by the users themselves.

With respect to Dussell, it is generally a location-based task reminder system. Briefly, the system of Dussell comprises a database and a mobile device. The mobile device is adapted to determine its geographical position, via appropriate means (e.g. GPS). The mobile device of Dussell also allows its user to enter a task descriptor to be associated with the location position. In the system of Dussell, the database, where the location position and the task descriptor associated therewith are stored, can be directly located in the mobile device or can be remotely located and be accessible via a communication network (e.g. Internet). In the system of Dussell, the mobile device is further adapted to generate an alarm when the mobile device is within a predetermined range of a certain location where a task can be effected.

In view of the Appellant's invention taken as a whole, the question to be answered is whether the references of Giniger and Dussell are applicable.

First, with all due respect for the Examiner, the Appellant believes that the Giniger's reference should not be, and should never have been, considered as relevant prior art in determining the patentability of the present invention.

When the invention of Giniger is taken as a whole, it is clear that the invention of Giniger does not allow the user of the mobile device to create personalized location bookmark relating to locations chosen by the user. In the system of Giniger, there is no creation of personalized data elements relating to any location.

Notably, in the last Office Action dated June 14, 2007, the Examiner noted that:

“Giniger does not explicitly disclose:

ii) means for creating said data elements relating to said location.”

As explained in previous responses to previous Office Actions, the fact that the system of the Giniger also comprises a data server, a mobile device and a data communication network does not make the invention of Giniger more relevant to the Appellant's invention.

As explicitly required in the MPEP, it is not the difference that must be obvious but the invention as a whole. In the present case, taken as a whole, the invention of Giniger refers to a system where the information is pulled from a data server whereas in the invention of the Appellant, the information is created by the user and thus pushed onto a data server. Conceptually, the two inventions actually teach away from each other.

As also explained in previous responses to previous Office Actions, the fact that the system of Giniger and the system of the Appellant share some components such as the data server, the mobile device and the communication network does not make the Giniger's reference more relevant against the present invention. Many inventions comprise data servers, mobile devices and communication networks. Yet, since they are applied in different contexts, they are not obvious in view of each other.

Accordingly, the Appellant respectfully believes that the reference of Giniger should not be, and for that matter, should never have been, considered as relevant prior art. When both the Appellant's invention and Giniger's invention are considered as a whole, they clearly relate to fundamentally different systems: the system of Giniger allows a user to retrieve information about certain locations located near the user whereas the system of the Applicant allows a user to create information relating to a location of his or her choice. Hence, the reference of Giniger should be withdrawn as a basis for the rejection of claims 1-2, 4, 6, 9 and 12-26 under 35 USC § 103(a).

Second, with respect to the Dussell's reference, the Appellant respectfully believes that even though the system of Dussell and the system of the Appellant have some

similarities, the system of the Appellant remains patentably distinct from the system of Dussell since they serve clearly different purposes.

As explained above, the system of Dussell is directed to a position-based task reminder wherein a user device generates an alarm when the user is within a predetermined distance from a location where a previously entered task can be effected.

Though both systems generally comprise a user device, a communication network and a database, both systems are conceptually different.

Typically, the system of Dussell allows the users to associate a task with a generic location descriptor. As recited in column 7, lines 22-32:

The present invention provides a means by which tasks can be scheduled and/or prioritized based on location. Tasks are assigned using a task descriptor (e.g., a text and/or voice message describing the task) and stored in database 10. **Typically, the task descriptor will include a reference indicating a location at which the task is to be accomplished.** This may be a set of geographic coordinates or, **more typically, a name of a business or other location.** To illustrate, if the task descriptor is a text message such as "PICK UP MILK", an appropriate reference might be "GROCERY STORE". (emphasis added)

In the foregoing passage, it is recited that the task descriptor is associated with a location reference, "typically, a name of a business or other location". More particularly, in the given example, the task "PICK UP MILK" is associated with the generic reference location "GROCERY STORE". In the mind of the Appellant, such a task descriptor is far from being a location bookmark. A location bookmark refers to a specific and precise set of coordinates, not any generic location such as "GROCERY STORE". We must be careful in expanding the term bookmark to include things such

as the task descriptor of Dussell. Whether it is used in the context of a book or in the context of the World Wide Web, the term bookmark is always associated with a means to store a specific location (e.g. a specific page in a book, a specific URL on the World Wide Web) for future retrieval and the Appellant has not departed from that meaning in its location bookmark system. A bookmark used in a book does not refer to any chapter or to any page, it refers to a specific and precise page, different from the other pages of the book. Similarly, on the World Wide Web, a bookmark referring to a precise web site page (e.g. www.uspto.gov) does not refer to any patent office web site but rather to the home page of the USPTO site. A location bookmark is used to identify a specific location.

Moreover, the concept of bookmark implies that it is typically created by the user and on the spot. In other words, the user will typically create a location bookmark when he or she is at the location, not before, not after. This is clearly and expressly recited in method claims 12, 17 and 26 wherein the methods comprise the steps of determining the user's location (with the user device), creating additional data elements relating to the location (with the user device) and then transmitting the location position and the additional data elements (i.e. the location bookmark) to the server. However, in the system of Dussell, it is clear that the act of associating a task (i.e. creating the text or auditory description) is not typically done when the user is at the specific location where the task could be effected. This would be absurd since there is no point in creating a reminder for a location-related task when the user is at the location. In other words, a user will not create the task descriptor "PICK UP MILK" when he or she is at the "GROCERY STORE", he or she would simply go in the store and pick up some milk. Thus, to associate a task with a location, the location must already be known, hence, be stored *a priori* in the database. For example, to associate the task of "PICKING UP MILK" with the location reference "GROCERY STORE", the location reference "GROCERY STORE" must already be available in the database. Thus, the system of Dussell implies a two steps process wherein the step

of determining the position of locations and the step of associating a task description thereto are chronologically substantially separated.

The Appellant understands that the invention of Dussell generally requires a database, a communication network and a user device generally comprising means to determine the position of the location and means for creating data elements related to the location (e.g. the task descriptor). The Appellant also understands that these elements are recited in claims 1 and 25. Still, as shown above, these components are not used in the same way and are not used for the same purpose. As a matter of fact, the system of Dussell is directed to a location-based task reminder (see claims 1, 21, 26 and 35) whereas the system of the Appellant is directed to a system to create and manage location bookmarks (see claims 1 and 25 and claims 12, 17 and 26 for the associated methods).

As mentioned above, when an invention is examined, the claimed invention must be considered as a whole and not just as an assembly of different components. Otherwise, different inventions would be considered obvious or anticipated just because they have similar components, even though they are used differently or serve different purposes.

Furthermore, though the preamble is generally not accorded any weight in determining the patentability of claim, the preamble should nevertheless be considered in defining the purpose or objective of an invention which comprises components similar to those of another invention used for a different purpose, as in the present case.

Accordingly, since both the invention of Dussell and the invention of the Appellant are used for totally different purposes, the Appellant respectfully believes that the Dussell reference does not render the system and method of the Appellant obvious, with or without the teaching of Giniger.

In view of the foregoing, the Appellant respectfully believes that claims 1-2, 4, 6, 9 and 12-26 are fully patentable over Giniger and Dussell.

The Examiner's rejection of claims 3 and 10 under 35 USC § 103(a) as being obvious over Giniger in view of Dussell and in further view of Kitano is erroneous and should be reversed.

Claims 3 and 10 are ultimately dependent upon claim 1 and should be read accordingly. Hence, claims 3 and 10 should be considered inventive and thus patentable in view of the arguments presented above for claims 1-2, 4, 6, 9 and 12-26.

Still, it is to be noted that, *per se*, the fact that geographical data elements comprise latitude and longitude data is not new. See for instance paragraph [0018] of the published patent application of the Appellant.

The Examiner's rejection of claims 5 and 11 under 35 USC § 103(a) as being obvious over Giniger in view of Dussell, in further view of Kitano and in further view of Camhi is erroneous and should be reversed.

Claims 5 and 11 are ultimately dependent upon claim 1 and should be read accordingly. Hence, claims 5 and 11 should be considered inventive and thus patentable in view of the arguments presented above for claims 1-2, 4, 6, 9 and 12-26.

Still, it is to be noted that, *per se*, the fact that geographical data elements comprise altitude data is not new. See for instance paragraph [0018] of the published patent application of the Appellant.

The Examiner's rejection of claims 7 and 8 under 35 USC § 103(a) as being obvious over Giniger in view of Dussell and in further view of Camhi is erroneous and should be reversed.

Claims 7 and 8 are ultimately dependent upon claim 1 and should be read accordingly. Hence, claims 7 and 8 should be considered inventive and thus patentable in view of the arguments presented above for claims 1-2, 4, 6, 9 and 12-26.

Still, it is to be noted that, *per se*, the fact that geographical data elements comprise latitude, longitude and altitude data is not new. See for instance paragraph [0018] of the published patent application of the Appellant.

Final remarks

The Appellant had a new idea, namely the concept of creating and managing location bookmarks. In order to implement its idea, the Appellant proposed a system comprising different means interacting with each other. The Appellant understands that most of these means and the way they are interconnected were known in the art. Yet, no one, before the filing of the present patent application, thought of using those means in order to create and manage location bookmarks.

As it is generally known, a patent is a deal between the inventor and the State wherein the inventor obtains a limited monopoly in exchange of a full disclosure of his/her idea and **the way to implement it**.

In the present case, the Appellant has fully disclosed its idea (creating location bookmarks) and the way to implement it. That the way to implement the Appellant's idea be similar to other inventions' ways should not prevent the Appellant in obtain a patent. Hence, the Appellant respectfully requests that all the rejections be withdrawn and that a Notice of Allowance be issued for all pending claims.

Application No. 09/931,896
Brief of Appeal dated August 27, 2007
Relating to Office Action of June 14, 2007

VIII. Claims Appendix (37 CFR § 41.37(c)(1)(viii))

WHAT IS CLAIMED IS:

1. (Previously amended) A system for the creation and management of location bookmarks, each of said location bookmarks relating to a location, said system comprising:
 - a. a data server comprising:
 - i. processor means for processing data;
 - ii. means for encoding data elements relating to said location;
 - iii. means for storing said data elements on a storage medium;
 - iv. means for selectively accessing said data;
 - v. data transceiver means;
 - b. at least one user device comprising:
 - i. means for determining the position of said location;
 - ii. means for creating said data elements relating to said location;
 - iii. data transceiver means;
 - c. a data communication network adapted to connect said user device to said data server.
2. (Previously amended) A system as claimed in claim 1 in which the data elements are adapted to contain data representations of:
 - a. the geographical position of the location; and
 - b. a user-created identifier associated with the location.
3. (Previously presented) A system as claimed in claim 2 in which the geographical position data elements comprise:
 - a. the latitude associated with the location; and
 - b. the longitude associated with the location.

4. (Previously presented) A system as claimed in claim 2 wherein said identifier is one or more of the following:
 - a. a text;
 - b. a video recording;
 - c. an audio recording; and/or
 - d. an image.
5. (Previously presented) A system as claimed in claim 3 further comprising data elements which are adapted to contain data representations of the altitude associated with the location.
6. (Previously presented) A system as claimed in claim 4 further comprising data elements which are adapted to contain data representations of the identification of the author of the bookmark.
7. (Previously presented) A system as claimed in claim 6 further comprising data elements which are adapted to contain data representations of the accuracy of the data representations of the latitude, the longitude and the altitude.
8. (Previously presented) A system as claimed in claim 1 in which the data elements are adapted to contain data representations of:
 - a. the latitude associated with the location;
 - b. the longitude associated with the location;
 - c. an identifier associated with the location; and
 - d. the altitude associated with the location.
9. (Previously presented) A virtual location bookmark for use with a system as described in claim 1 in which the data elements are adapted to contain data representations of :
 - a. the geographical position of the location; and
 - b. an identifier associated with the location.

10. (Previously presented) A virtual bookmark as claimed in claim 9, wherein the geographical position data elements comprise;
 - a. the latitude associated with the location; and
 - b. the longitude associated with the location.
11. (Previously presented) A virtual location bookmark as claimed in claim 10, further comprising the altitude associated with the location;
12. (Previously presented) A method allowing an end user to create and store information concerning a location, said method using a system comprising a data server, at least a user device and a data communication network, said method comprising the steps of:
 - a. determining the geographical position of the location using said user device;
 - b. identifying or creating additional data elements associated to said location;
 - c. creating a record comprising said position and said additional data elements using said user device;
 - d. transmitting said record from said user device to said data server using said data communication network;
 - e. storing said record in said data server.
13. (Previously presented) A method as claimed in claim 12 wherein the said record is created by the user of a wireless device.
14. (Previously presented) A method as described in claim 12 wherein said record is created by the user of a wired device.
15. (Previously presented) A method as claimed in claim 13 wherein said wireless device is a cellular telephone.

16. (Previously presented) A method as claimed in claim 12 wherein said record is created by the user of a browser based light client.
17. (Previously presented) A method allowing an end user to create and store information concerning a location, said method using a system comprising a data server, at least a user device and a data communication network, said method comprising the steps of:
 - a. determining the geographical coordinates of the location using said user device;
 - b. identifying or creating additional data elements associated to said location using said user device;
 - c. transmitting said geographical coordinates and said additional data elements from said user device to said data server using said data communication network;
 - d. storing said coordinates and said additional data elements in said data server.
18. (Previously presented) A method as claimed in claimed 12 wherein said coordinates are determined with the use of a GPS device.
19. (Previously presented) A method as claimed in claimed 17 wherein said coordinates are determined with the use of a GPS device.
20. (Previously presented) A method as claimed in claim 19 wherein said GPS device is integrated to a wireless communication device.
21. (Previously presented) A method as claimed in claim 20 wherein said wireless communication device is a cellular telephone.
22. (Previously presented) A method allowing an end user to manage a record created pursuant to the method claimed in claim 12, comprising the steps of:
 - a. accessing said data server using said data communication network using a wireless device;
 - b. selecting said record said data server;

- c. communicating said record over said data communication network to the user of said wireless device.

23. (Previously presented) A method as claimed in claim 12, wherein the system further comprises a second user device, said method further allowing an end user to share said information concerning a location with a second end user, said method further comprising the step of transmitting said record from said first user device to said second user device using said data communication network.

24. (Previously presented) A method as claimed in claim 17, wherein the system further comprises a second user device, said method further allowing an end user to share said information concerning a location with a second end user, said method further comprising the step of transmitting said geographical coordinates and said additional data elements from said first user device to said second user device using said data communication network.

25. (Previously presented) A system for the creation and management of location bookmarks relating to a location, said bookmark comprising geographical data elements and personalized data elements, said system comprising:

- a. a data server comprising:
 - i. processor means for processing data;
 - ii. means for encoding said geographical data elements and said personalized data elements relating to said location;
 - iii. means for storing said geographical data elements and said personalized data elements on a storage medium;
 - iv. means for selectively accessing said geographical data elements and said personalized data elements;
 - v. first data transceiver means;
- b. at least one remote user device comprising:

- i. means for determining the position of said location and for creating said geographical data elements relating to said location;
 - ii. means for creating said personalized data elements relating to said location, said personalized data elements being created by a user of said user device;
 - iii. display means for displaying said geographical data elements and/or said personalized data elements;
 - iv. second data transceiver means;
- c. a data communication network adapted to connect said user device to said data server via said first data transceiver means and second data transceiver means;
- whereby said at least one remote user device is adapted to transmit said geographical data elements and said personalized data elements to said data server, via said data communication network, in order for said geographical data elements and said personalized data elements to be encoded by said encoding means and stored on said storage medium by said and whereby said at least one remote user device is adapted to retrieve said geographical data elements and said personalized data elements from said server, via said data communication network, in order for said geographical data elements and/or said personalized data elements to be displayed on said display means.

26. (Previously presented) A method for allowing an end user to create and store information concerning a location, said method using a system comprising a data server, at least one user device and a data communication network, said method comprising the steps of:
- a. determining the geographical position of said location using said user device;
 - b. creating personalized data elements associated to said location;
 - c. creating a record comprising said geographical position and said personalized data elements using said user device;
 - d. transmitting said record from said user device to said data server using said data communication network;
 - e. encoding said record with said data server;

Application No. 09/931,896
Brief of Appeal dated August 27, 2007
Relating to Office Action of June 14, 2007

f. storing said encoded record in said data server.

IX. Evidence Appendix (37 CFR § 41.37(c)(1)(ix))

The following evidences are being submitted (in triplicate):

- Copy of U.S. Patent No. 6,199,045 granted to Giniger et al.;
- Copy of U.S. Patent No. 5,938,721 granted to Dussell et al.;
- Copy of U.S. Patent No. 5,926,116 granted to Kitano et al.
- Copy of U.S. Patent No. 5,825,283 granted to Camhi;

There is no further evidence submitted with this Brief of Appeal.

X. Related Proceedings Appendix (37 CFR § 41.37(c)(1)(x))

There is no related proceedings identified pursuant to 37 CFR § 41.37(c)(1)(ii).

Conclusion

In view of the foregoing, the Appellant respectfully submits that claims 1 to 26 are fully patentable over the cited prior art. Accordingly, it is respectfully requested that the Examiner's rejection be reversed.

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Respectfully submitted,

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